UNITED STATES DISTRICT COURT DISTRICT OF CONNECTICUT

CARLTON JOLLEY

PRISONER

NO. 3:04CV1582(RNC)(DFM)

VS.

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CMHC, ET AL.

MARCH 3, 2006

THE DEFENDANTS' PARTIAL MOTION TO DISMISS

The plaintiff, an immate confined to the custody of the Connecticut Commissioner of Correction, brings an amended complaint against numerous defendants employed by the State of Connecticut alleging that they violated his right to be free from cruel and unusual punishment under the eighth amendment to the United States Constitution. More specifically, the plaintiff alleges that certain medical treatment provided (or not provided) constituted deliberate indifference to his serious medical needs. In addition, he contends that the actions of the defendants constituted negligence and medical malpractice. He sues the defendants in their individual and official capacities.

March 26, 2007. <u>Jolley v. Corr. Managed Health Care, et al.</u> 3:04-CV-1582 (RNC)

Re: Defs.' Partial Motion to Dismiss (Doc. # 25)

Denied. The motion to dismiss based on the Eleventh Amendment is denied as moot because plaintiff's memorandum in opposition makes it clear that the claims against the individual defendants in their official capacities and CHMC are limited to claims for injunctive relief. The motion to dismiss the § 1983 claims against Dr. Cutler and Dr. Marion is denied because it is not clear beyond doubt that plaintiff can prove no set of facts consistent with the allegations of the complaint that would entitle him to relief against these defendants. See Conley v. Gibson, 355 U.S. 41, 45-46 (1957). The motion to dismiss the state law claims based on Conn. Gen. Stat. § 4-165 is denied because plaintiff alleges that the defendants' conduct was wanton, reckless or malicious. Şo ordered.

Robert N. Chatigny, U.S.D.J.